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Inquiries on the Regulation (EU) of the European Parliament and of the  
Council On amending Regulation (EC) No 1060/2009  
on credit rating agencies

Securitization Forum of Japan

To Ms. Isabelle Cardon,  
Head of Unit - Credit Rating Agencies  
Committee of European Securities Regulators

I. Introduction

- A. We, the Securitization Forum of Japan, have some inquiries regarding the Regulation (EU) of the European Parliament and of the Council on amending Regulation (EC) No. 1060/2009 on credit rating agencies (hereinafter referred to as “the Regulation”).
- B. We would like to confirm whether if our understandings, mainly focusing on the application of this rule to entities located outside the EU, is correct.

II. Our Inquiries on Article 8a and Article 8b

1. Our understanding of Article 8a and Article 8b

- A. We understand that in the Regulation, the European Commission adopted a Website Rule similar to Rule 17g-5 (a)(3) of the Rules and Regulations under the US Securities Exchange Act of 1934 (hereinafter referred to as “the SEC Website Rule”) in Article 8a and Article 8b (hereinafter referred to as “the EU Website Rule”).
- B. We also understand that the Commission takes the approach that the credit rating agencies that are required to maintain a password-protected website should be limited to credit rating agencies established and registered in the EU, while the SEC Website Rules apply to credit rating affiliates located in countries outside the US, including in Japan. Our understanding is based on Article 8b.1 of the Regulation that clearly indicates that the credit rating agency required to maintain a password-protected website is “a Credit rating agency registered in the Union.”
- C. Regarding such requirement, we believe that measures to prevent “rating shopping” in Japan should be achieved by compliance with Article 306 (1) (ix) of the Cabinet Office Ordinance on Financial Instruments Business, etc. (\*1), since such provision has been prescribed taking into account the particular conditions surrounding the Japanese market, credit rating agencies, and its investors.

\*1 Article 306 (1) (ix) of the Cabinet Office Ordinance on Financial Instruments Business, etc., of Japan, requires rating agencies to ensure that (i) a list of material matters necessary for independent third parties to review the appropriateness of credit ratings is disclosed to the public, (ii) the credit rating agency makes a request to the issuer of a structured finance instrument or its related third party to disclose such material matter to the public, or to

take such other necessary measures enabling independent third parties to review the appropriateness of such credit rating, and (iii) such credit rating agency discloses to the public the contents of such request and its results.

2. Our Inquiries on Article 8a

- A. In contrast to Article 8b, Article 8a does not clearly indicate that “The issuer of a structured finance instrument or a related third party” that is required to provide a password-protected website and to grant other credit rating agencies registered or certified to access such information is limited to parties located in the EU.
- B. We understand that “The issuer of a structured finance instrument or a related third party” is limited to parties located in the EU, which is similar to the approach taken by the European Commission indicated in Article 8b. We would like to confirm if such understanding is correct.
- C. Finally, we would like to confirm whether “credit rating agencies” as stated in Article 8a are limited to credit rating agencies registered in the Union.

We would very much appreciate hearing from you at your earliest convenience.

Thank you in advance for taking your time. Should you have any questions regarding any of our inquiries set out above, please do not hesitate to contact us:

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